

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DEREK W. BARRINGER,)
Petitioner,)
v.) Civil Action
MARTY C. ANDERSON, Warden, United) No. 08-3311-CV-S-RED-H
States Medical Center for)
Federal Prisoners, et al.,)
Respondents.)

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition for writ of habeas corpus be dismissed without prejudice.

Petitioner has filed written exceptions to the Report and Recommendation of the United States Magistrate Judge in which he reasserts the allegations of his original petition. He contends that the Bureau of Prisons has illegally deprived him of 10 months of jail time credit.

Having fully reviewed the record de novo, this Court agrees with the Magistrate that the petitioner has failed to state a constitutional violation. The record supports the Magistrate's finding that petitioner received credit towards a state sentence for the time period in question, and that he is not entitled to credit on his federal sentence for that time period. Accordingly, the Court

finds that the petition for habeas corpus relief must be dismissed without prejudice.¹

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved.² It is therefore ORDERED that petitioner's exceptions filed herein should be, and they are hereby, overruled. It is further

ORDERED that petitioner should be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus should be, and is hereby, dismissed without prejudice.

/s/ Richard E. Dorr
RICHARD E. DORR
United States District Judge

Date: 9/8/09

¹The Federal Public Defender's Office has filed a motion to withdraw. Given the status of this case, the motion will be granted.

² According to the Bureau of Prisons, petitioner has completed his sentence.